## **United States Department of Labor Employees' Compensation Appeals Board**

T.W., Appellant	)
and	) Docket No. 11-1924 ) Issued: May 9, 2012
U.S. POSTAL SERVICE, POST OFFICE, Huntsville, AL, Employer	)
Appearances: Appellant, pro se Office of Solicitor, for the Director	Case Submitted on the Record

## **ORDER REMANDING CASE**

Before:
RICHARD J. DASCHBACH, Chief Judge
ALEC J. KOROMILAS, Judge
COLLEEN DUFFY KIKO, Judge

On August 23, 2011 appellant filed an application for review of an August 2, 2011 merit decision of the Office of Workers' Compensation Programs (OWCP), claim number xxxxxx947, which denied modification of a March 2, 2011 decision finding that he did not sustain a work-related right elbow condition.<sup>1</sup> The appeal was docketed as number 11-1924.

The Board has duly considered the matter and finds that the case is not in posture for a decision. The present appeal involves appellant's June 7, 1994 traumatic injury claim which was administratively approved, without formal consideration of the merits of the claim, for limited payment of medical expenses. OWCP subsequently reopened the claim for consideration following his undated request for a schedule award, which it received on November 16, 2010. In its March 2, 2011 decision, it denied the claim on the grounds that fact of injury was not established. Specifically, OWCP found that the medical evidence failed to establish that the diagnosed condition was causally related to the accepted work incident. However, the record transmitted to the Board does not include much of the early evidence in the claim including appellant's original traumatic injury claim. Furthermore, the record does not contain some of the

<sup>&</sup>lt;sup>1</sup> The August 2, 2011 decision referenced another right elbow injury claim filed by appellant, an occupational disease claim processed under claim number xxxxxx026, which was denied by decision dated June 19, 1995. This other claim is not before the Board on the present appeal.

earlier medical evidence from 1994 which OWCP referenced and relied on in denying his claim. This includes but is not limited to evidence from June 1994 from a family physician and Dr. Tejanand Mulpur.

The Board, therefore, finds that the appeal docketed as No. 11-1924 is not in posture for a decision as the Board is unable to render a fully informed adjudication of the case. The case must be remanded to OWCP for reconstruction and proper assemblage of the case record and an appropriate merit decision issued on appellant's claim in order to preserve his appeal rights.

**IT IS HEREBY ORDERED THAT** the August 2, 2011 decision be set aside and the matter remanded to the Office of Workers' Compensation Programs for further proceedings consistent with this order.

Issued: May 9, 2012 Washington, DC

> Richard J. Daschbach, Chief Judge Employees' Compensation Appeals Board

> Alec J. Koromilas, Judge Employees' Compensation Appeals Board

> Colleen Duffy Kiko, Judge Employees' Compensation Appeals Board